

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

## **MEMORANDUM OPINION**

This case comes before the court on the motion for summary judgment filed by the defendant. On February 26, 2010, the magistrate judge wrote in his report and recommendation:

Wherefore, the facts and law concerning the appropriateness of Federal's decision to deny accidental death benefits having been fully presented, argued, and considered, it is recommended that defendant Federal's motion for summary judgment be denied and that the court reverse Federal's decision that Wade Dailey's death was not an "accident" under the terms of the insurance policy, and thus conclude this case.

The defendant has filed objections.

Having carefully reviewed and considered *de novo* all the materials in the court

file, including the report and recommendation, and the objections thereto, the court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and his recommendation is **ACCEPTED**. The Court finds that Federal's decision that Wade Dailey's death was not an "accident" under the terms of the insurance policy was incorrect, and that Federal's denial is due to be reversed, and benefits are due to be paid. A final order will be entered.

**DONE** this the 16th day of April, 2010.

  

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**VIRGINIA EMERSON HOPKINS**  
United States District Judge